

TULSA COUNTY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 392
Tuesday, January 15, 2013, 1:35 p.m.
Ray Jordan Tulsa County Administration Building
County Commission Room, Room 119
500 South Denver

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Charney, Chair	Draper	Miller	West, Co. Inspector
Dillard		Bates	
Osborne, Secretary		Sparger	
Walker, Vice Chair			

The notice and agenda of said meeting were posted at the County Clerk's office, County Administration Building, 10th day of January, 2013 at 10:37 a.m., as well as in the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Chair Charney called the meeting to order at 1:35 p.m.

MINUTES

On **MOTION** of **OSBORNE**, the Board voted 4-0-0 (Charney, Dillard, Osborne, Walker "aye"; no "nays"; no "abstentions"; Draper "absent") to **APPROVE** the Minutes of December 18, 2012 (No. 391).

Mr. Bates explained the rules and procedures for the County Board of Adjustment Public Hearing. Mr. Bates informed the Board that there is one case that would like to possibly request to withdraw the application.

Mr. Charney stated that normally the Board listens to the applicants as they are presented on the agenda. However, if there are interested parties present regarding an application, it is wise for the Board to address possible withdrawal requests. If there are no objections the Board will listen to the applicant's request.

NEW APPLICATIONS

2455—Marshall Luton

Action Requested:

Special Exception to allow for a firing range (Use Unit 2) in an AG district (Section 310). **Location:** 13243 South Mingo Road

Presentation:

Reuben Davis, 2913 East 56th Place, Tulsa, OK; stated he is before the Board today representing Mr. Marshall Luton, and is an attorney with McAfee and Taft. Recently there have been a number of objections received to the applicant's desire to open a firing range. The materials before the Board show that Mr. Luton has been a Tulsa Police Officer for 17 years and has operated shooting ranges with zero incidents. Mr. Luton thought this request would be approved, and he was surprised to receive the amount of vehement objections he has received. Today Mr. Davis is before the Board on behalf of Mr. Luton to ask the Board if the application may be withdrawn.

Marshall Luton, 901 West South Street, Collinsville, OK; stated that the last thing he wants is to have angry neighbors. He thought the South Mingo location would be ideal for a firing range, because if a person were to look at Google Maps there is nothing in the area. There is a residential neighborhood to the southwest of the subject property, but everything seemed perfect for a firing range because there has been shooting in the area for years. When a business such as a shooting range becomes a commercial business there is a lot more shooting that happens, so out of respect for the people of the neighborhood and community he requests to have the application withdrawn.

Interested Parties:

There were several interested parties present but it was not necessary to hear them due to the withdrawal of the application.

Comments and Questions:

None.

Board Action:

No Board action was required because of the withdrawal of the application.

UNFINISHED BUSINESS

2438—David Woods

Action Requested:

Variance from the requirement that a lot have a minimum of 30 feet of frontage on a public street or dedicated right-of-way (Section 207). Location: 5875 South 157th West Avenue

Presentation:

Andrew Shank, 2727 East 21st Street, Suite 200, Tulsa, OK; stated he requests a continuance on this case. Mr. Woods came to Mr. Shank's office in December 2012 upon advice of the Board of Adjustment seeking counsel and to have documents reviewed. When Mr. Woods came into the office he was advised at that time that Mr. Shank's schedule was very busy and Mr. Shank advised Mr. Woods that he would not be able to review the case until the beginning of January 2013. Mr. Shank has reviewed Mr. Woods' documents and the file indicates that there is an attorney's title opinion that was issued as part of the property transaction, and that document is not in the file. Mr. Shank has requested a copy of the title opinion because it will determine whether Mr. Woods has access or that Mr. Woods needs to proceed with a mutual access easement. Mr. Shank wants the Board to know that he is working on the matter at hand, and requests a 60-day continuance allowing time to obtain all the necessary documents for the subject property.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WALKER**, the Board voted 4-0-0 (Charney, Draper, Osborne, "aye"; no "nays"; no "abstentions"; Dillard, Walker "absent") to **CONTINUE** the request for a Variance from the requirement that a lot have a minimum of 30 feet of frontage on a public street or dedicated right-of-way (Section 207) to the March 19, 2013 meeting; for the following property:

N220 E495 NE SW SW SEC 32 19 11 2.50ACS, OF TULSA COUNTY, STATE OF OKLAHOMA

2449—L & B Dirt Pit, LLC – Bill Mangold

Action Requested:

Special Exception for mining dirt (Use Unit 24) in the AG zone (Section 310, Table 1). **Location:** 1 mile East of Highway 11 on East 106th Street North, west of Hominy Creek

Mr. Charney explained to the applicants that there were only four board members present at this meeting, and Mr. Charney finds it necessary to recuse himself from this case leaving three board members. If the applicant would like to postpone his hearing until the next meeting he could do so. If the applicant wanted to proceed with the hearing today it would be necessary for him to receive an affirmative vote from all three board members to constitute a majority and if one board member voted no today the application would be denied. Mr. Charney asked the applicant if he understood and asked the applicant what he would like to do. The applicant stated that he would like to proceed with the hearing today.

Mr. Charney recused himself and abstained from the meeting at 1:51 p.m.

Presentation:

Joe Kelley, J C Engineering, 10035 North 177th East Avenue, Owasso, OK; stated he is representing the applicant Mr. Bill Mangold. Mr. Mangold is operating a dirt pit that has been in operation for quite awhile. The dirt pit is still under the same land owner and Mr. Mangold is leasing the right to mine the property. All the paperwork Mr. Mangold needs to operate the mining operation is complete or pending, i.e., a Corp of Engineer permit that is pending. The neighbor that voiced concerns at the last meeting has met with Mr. Mangold and the differences have been resolved.

Bill Mangold, 17950 North Peoria Avenue, Skiatook, OK; stated that he believes Mr. Kelley has covered all the issues quite well and he is available for any questions.

Mr. Osborne asked Mr. Mangold to explain how the differences between him and the concerned neighbor were resolved. Mr. Mangold stated that he met with the neighbor at the area where there were concerns about Mr. Mangold crossing over the property boundary line. It was established that Mr. Mangold was about 150 feet from the surveyor's property pins and not near the neighbor's property line. Once the neighbor saw the surveyor pins and found out that the mining operation was going away from his property line he was satisfied and no longer has any issues.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WALKER**, the Board voted 3-0-1 (Dillard, Osborne, Walker “aye”; no “nays”; Charney “abstaining”; Draper “absent”) to **APPROVE** the request for a **Special Exception** for mining dirt (Use Unit 24) in the AG zone (Section 310, Table 1); for the following property:

The N/2 of the NE/4, Section 13, Township 21 North, Range 12 East, Less and Except, Beginning Northeast corner of N/2 of the NE/4, Section 13, Township 21 North, Range 12 East, thence West 980.95’, thence South 25’, thence Southeasterly 1227.08’ to a point, thence East 25’, thence North 718.5’ to the Point of Beginning, OF TULSA COUNTY, STATE OF OKLAHOMA

Mr. Charney resumed with the meeting at 1:58 p.m.

2243-A—Brian Curthoys

Action Requested:

Special Exception to permit a private airstrip in an AG District (Section 310).

Location: 5415 East 191st Street South

Presentation:

Brian Curthoys, 601 South Boulder, Suite 400, Tulsa, OK; stated that at last month’s meeting the applicant want to have an airstrip on the subject property that had been in operation for five years under a temporary special exception. After meeting with Mr. Ferris and other protestants the concerns have been discussed, and an agreement has been reached. The language of the agreement was presented to the Board in the form of a memo, which Mr. Curthoys read and requested it be made part of the official record. The memo, dated January 15, 2013, read as follows: “The approval of a Special Exception to permit a private airstrip in an AG district (Section 310) with the following conditions: The airstrip will be a grass runway, for use by single-engine or ultra-light planes only; no lighting of runway, no commercial use; the airstrip will be limited to the use of the owner of the proeprty for his personal and family use only; no abutting property owners will be given access to or rights to use the airstrip.”

Interested Parties:

Jim Ferris, 12345 South Memorial, Bixby, OK; stated he was at the Board of Adjustment meeting last month representing protestants in the area, and everyone has agreed to a resolution on this application.

Comments and Questions:

None.

Board Action:

On **MOTION** of **OSBORNE**, the Board voted 4-0-0 (Charney, Dillard, Osborne, Walker “aye”; no “nays”; no “abstentions”; Draper “absent”) to **APPROVE** the request for a **Special Exception** to permit a private airstrip in an AG District (Section 310). The airstrip is to be opearted subject to the language in the draft memo, understanding and agreed upon by the applicant and the protestants dated January 15, 2013. The memo, dated January 15, 2013, read as follows: “The approval of a Special Exception to permit a private airstrip in an AG district (Section 310) with the following conditions: The airstrip will be a grass runway, for use by single-engine or ultra-light planes only; no lighting of runway, no commercial use; the airstrip will be limited to the use of the owner of the proeprty for his personal and family use only; no abutting property owners will be given access to or rights to use the airstrip.” Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

E/2 E/2 NW/4 NE/4 SW/4 less & except the North 610’ & E/2 E/2 SW/4 NE/4 SW/4 & E/2 E/2 NW/4 SE/4 SW/4 & E/2 NE/4 SW/4 SE/4 SW/4 & W/2 NE/4 SW/4 SE/4 SW/4 less and except the North 280’ & SE/4 SW/4 SE/4 SW/4 less & except the South 50’ Public Highway dedication to Tulsa County, Section 3, Township 16 North, Range 13 East of the Indian and Meridian, Tulsa County, State of Oklahoma

And

W/2 SE/4 NW/4 NE/4 SW/4 & E/2 SE/4 NW/4 NE/4 SW/4 less and except the South 50’ & W/2 E/2 SW/4 NE/4 SW/4 & W/2 E/2 NW/4 SE/4 SW/4 and W/2 E/2 SW/4 SE/4 SW/4 less and except the South 380’ Section 3, Township 16 North, Range 13 East of the Indian and Meridian, OF TULSA COUNTY, STATE OF OKLAHOMA

NEW APPLICATIONS

Case No. 2452—Heroux Partners – Michael S. Linscott

Action Requested:

Variance of the front yard setback for an AG district from 35 feet to 21.8 feet on a non-arterial street (Section 330). Location: 17860 South 71st East Avenue

Presentation:

Michael Linscott, 1 West 3rd Street, Suite 1750, Tulsa, OK; stated the variance request is for the building line that extends into the front yard area of his client's home, Richard and Mandy Campbell. The house was built from their perspective without knowledge of the boundary line. They were not aware of the problem until the financing and closing of the loan. The portion of the house that extends over the line is the garage by approximately 13.2 feet. The garage does not extend into the utility easement. The reason the house was constructed on the lot as it is, is due to a drainage easement on the north side of the lot. There is also a drainage pond there. His client has not been able to reach the builder to address the issue and that is why he is here before the Board today.

Mr. Walker asked Mr. West if a permit had been issued for the building of the subject house. Mr. West answered affirmatively. Mr. Walker asked Mr. West if his office had not been aware of, or have the records of the easements, or the building line. Mr. West stated that his office did have records of the building line as far as the plat. But the builder was not aware of the plat and the builder encroached into the building line. The easement has been amended and is no longer in the easement.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Dillard, Osborne, Walker "aye"; no "nays"; no "abstentions"; Draper "absent") to **APPROVE** the request for a **Variance** of the front yard setback for an AG district from 35 feet to 21.8 feet on a non-arterial street (Section 330). The hardship is the unusual configuration of the lot and the existence of the drainage easement on the west side of the property. Finding that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

LT 7 BLK 3, THE VILLAGE AT SPARTA, OF TULSA COUNTY, STATE OF OKLAHOMA

Case No. 2453—Victor Flores

Action Requested:

Variance for a second dwelling unit per lot of record (Section 208). **Location:** 7205 North 129th Avenue East

Presentation:

Victor Flores, 7205 North 129th East Avenue, Owasso, OK; stated he wants to be able to use the existing building on his property as a dwelling unit for family. The dwelling would not be used permanently, but only on a temporary basis. He would be using the dwelling for family, and especially for his Grandmother who stays with him for two or three weeks a year.

Mr. Charney asked Mr. Flores to describe what is inside the second dwelling unit. Mr. Flores stated there are two restrooms. One will be limited to the use of the shop area and one will be limited to the use of the living area. The first floor is a living room, a closet, a library and the restroom; and the second floor will be a bedroom, a game room and there will be no kitchen.

Mr. Charney asked Mr. Flores if the entire building was heated and cooled. Mr. Flores answered affirmatively.

Mr. Walker asked Mr. Flores to give the dimensions of the top floor. Mr. Flores stated that the top and bottom floors are each 25'-0" x 30'-0".

Mr. Osborne asked staff if the subject structure existed. Mr. West stated the structure does exist and is in the "dry-in period" meaning it is rough framed.

Mr. Charney asked Mr. West to explain how his office became involved in this case. Mr. West stated that originally the building was going to be just a shop, but when the inspector performed his inspection of the structure he noticed that the building was going to be a dwelling. At that point he advised the applicant that he needed to come before the Board of Adjustment to receive permission for a second dwelling. Since then Mr. West has been to the subject property for a site visit and there are only two bathrooms, one having a shower, while in the first site visit the structure had three bathrooms. Mr. Charney asked Mr. West if he had observed any kitchen plumbing. Mr. West stated that there is no kitchen plumbing in the structure.

Interested Parties:

Trevor Baldwin, 7251 North 129th East Avenue, Owasso, OK; stated he lives next door to Mr. Flores. Mr. Baldwin stated that his concern at the last meeting is maintaining the residential character of the neighborhood, and it still is. He has spoken with Mr. Flores about his concerns. Mr. Baldwin stated that he personally does not have a problem with a temporary type building for family members to stay in. Mr. Baldwin stated that he is basically happy with the proposal presented by Mr. Flores, but he would like to see the Board add a stipulation that the subject building could only be used so many weeks of the year or a limitation factor. Mr. Baldwin also asked that the subject building not become a rental unit now or for the next owner. He wants to maintain the single family character of the neighborhood.

Mark Schaffitzel, 7289 North 129th East Avenue, Owasso, OK; stated that he lives in the residence to the north of Mr. Flores property. He has the same concerns as Mr.

Baldwin. Mr. Schaffitzel does not want to have the subject building become a rental property with a lot of traffic. He does not object to the subject building being used as temporary living quarters for family, but he would want the Board to issue a time limitation for the use by family.

Rebuttal:

Mr. Flores came forward for any questions from the Board.

Mr. Charney asked Mr. Flores if he understood the concerns of Mr. Baldwin and Mr. Schaffitzel, one being not using the subject building as rental property and two, using the subject building under a time limitation. Mr. Flores nodded yes implying he understood his neighbors concerns.

Ms. Miller stated that a variance goes in perpetuity with the property and not with the property owners. If the variance were to be granted it could be conditioned that any future owner is to be told of the any conditions the Board places on this variance request and that they too need to abide by the conditions placed the on the variance.

Mr. Charney asked Mr. Flores how he was going to use the shop designated area of the building. Mr. Flores stated that the shop area would be used as storage for his bobcat and materials.

Mr. Dillard asked Mr. Flores if the shop area was insulated and covered in sheet rock. Mr. Flores stated that the shop area is insulated and has plywood covering but not sheet rock.

Mr. Walker asked Mr. Flores if he used the bobcat in a business that he might have. Mr. Flores answered affirmatively. Mr. Walker asked if the subject building was to be used as a business behind his house. Mr. Flores stated that building would be used for storage not as a business. Mr. Flores stated he works in construction and will store his tools, bobcat and van in the subject building. Also, he will be storing his father's trucks and other items of his father's.

Mr. Schaffitzel came forward and stated that in recognition of the land being approximately 2-1/2 acres the properties are longer than they are wide. The houses on the land are rather close, and everything must be built 20 feet off the boundary. He believes Mr. Flores house is probably built on the 20 foot boundary because to the south of that there is a low plain for water drainage.

Mr. Charney asked Mr. Baldwin to come forward to answer a question from the Board. Mr. Charney asked Mr. Baldwin how long of a time limit would he consider for the subject building to be used by family. Mr. Baldwin stated that he was comfortable with four weeks. Mr. Schaffitzel gave his affirmation to this time limitation from the audience.

Comments and Questions:

Mr. Dillard stated that he thinks four weeks is too little time for a family member, such as Mr. Flores Grandmother, to be given permission to stay so he would like to see the time limitation extended to eight weeks.

Board Action:

On **MOTION of CHARNEY**, the Board voted 4-0-0 (Charney, Dillard, Osborne, Walker “aye”; no “nays”; no “abstentions”; Draper “absent”) to **APPROVE** the request for a **Variance** for a second dwelling unit per lot of record (Section 208). The hardship is the unusual configuration of the long narrow unplatted tract. This approval is subject to the following restrictions: 1) the new addition is not to be rented by the applicant or successor in title; 2) no other family will be moving into the subject building on the property; 3) the subject building will only be used on certain occasions by family and is not to exceed two months out of any given year; 4) these restrictions will remain even after the transfer of the property; 5) no office use and no business is to be conducted out of the subject building, the entire subject building is for either storage and/or this limited dwelling use; and 6) the subject building is not to contain separate kitchen facilities within the structure. Finding that in granting this request it will not be injurious to the neighborhood or detrimental to the surrounding area; for the following property:

**N145 W755 S/2 SW NW LESS W16.5 THEREOF FOR RD SEC 33 21 14 2.458ACS,
OF TULSA COUNTY, STATE OF OKLAHOMA**

2454—Randy Frailey

Action Requested:

Use Variance to allow Use Unit 27 in an IL district to permit a salvage yard (Section 910). Location: 6702 North Peoria Avenue East and 6750 North Peoria Avenue East

Presentation:

Randy Frailey, 6750 North Peoria Avenue, Tulsa, OK; stated he has operated the existing scrap yard on North Peoria for approximately ten years, and it has been brought to his attention that the property is not zoned for a salvage yard. He was granted a variance approximately ten years ago and he did not realize that it had expired. He is before the Board to request a use variance so he can continue to operate his business at 6750 North Peoria. He has met with the County Commissioner and other people to see what would be necessary to be able to continue his business. There were suggestions made and he has acted on several of the suggestions but he is not done. Mr. Frailey is seeking a variance over a larger piece of property than the land that was covered under the expired variance.

Ms. Miller stated that there was not a previous variance on the property, and Mr. West concurred. Mr. Frailey stated the variance was not on the original property. Ms. Miller

stated there are variance on the property to the north, but the subject property does not have a history of a variance.

Mr. Charney asked Ms. Miller to explain what she understands the history to be on the subject property. Ms. Miller stated that by looking at the aerial photograph there are some generally the same type of businesses and they received a use variance last year. So the properties farther north are covered by a use variance but Mr. Frailey's property is not covered by a use variance. Ms. Miller continued and stated that the subject property that is before the Board today is an IL zoned property. A Use Unit 27 is not allowed by right in an IL zoned property. The reason Mr. Frailey is before the Board today is because he needs to clean up the property, and last year Mr. Frailey submitted a rezoning request on the property that he owns to the south, which is designated by the small panhandle portion on the map. The southern panhandle shaped portion is currently a residentially zoned property with the intent that when the IL zoning was in place Mr. Frailey would bring both properties back in for the variance consideration. This was brought before the County Commissioners and there were issues that the Commissioners wanted to address, i.e., the spillage onto the trail. Everyone wants to work with Mr. Frailey to clean up the subject property and offered by starting to work in increments. The first step of the process is to receive the Use Variance approval by the Board to bring the IL zoning into order. There is no way the Board can approve the property to the south today because that property is not IL zoned and it is not part of this application. The southern portion of the subject property will be a follow-up application pending the approval of the IL zoning by the County Commissioners.

Mr. Charney asked Ms. Miller if all the property being brought to the Board today being used as a salvage yard recycling center. Ms. Miller stated that is correct. It is the property that has been used for approximately ten years. Mr. Bates stated that by the historical aerial photos it was determined that the subject property was started to be used as a salvage yard between 1983 and 1990.

Mr. Charney asked the applicant if he thought all the requests made in regards to his property, i.e., cleaning up the subject property, were reasonable. Mr. Frailey answered affirmatively. Mr. Charney asked Mr. Frailey how long he thought it would take to complete the requests made of Mr. Frailey. Mr. Frailey stated that he thinks that in 90 days he could completely change the look of the subject property.

Interested Parties:

Jeff Kirkham, 1727 East 73rd Street North, Tulsa, OK; stated he respectfully asks the Board to deny this application, or at least to continue this case until the various issues outlined by the staff comments are resolved. It has long been his observation that no effective process exists to ensure that promises made by an applicant or conditions stipulated by the Board are always adhered to. This applicant has operated this salvage sometime since 1983 up to 1990, and it has been illegal. He cannot accept the concept that Mr. Frailey did not know that, or that he did not know that his variance time had expired. This Board makes their decisions very clear. He has attended Board of Adjustment meetings on several occasions and the Board is very clear with their

decisions. Mr. Kirkham agrees with the staff comments that the approval of this case could eventually cause more property to be rezoned to IL in that area. There are properties on the east side of Peoria that are packed with junk cars in two compact areas. These would be salvage operators or owners are watching what is happening at this meeting today and awaiting to hear a decision on this case. Mr. Kirkham has observed, on several occasions, long flatbed trucks blocking both southbound lanes of Peoria which is in fact a state highway. He is surprised that there has not been an accident because of this action by the truck drivers. Again, he requests the Board to deny this application because there are too many serious issues involved in the current illegal use of the subject property.

Mr. Charney asked Mr. Kirkham if he was aware of the list of remedial measures that were put before the applicant to accomplish recently. Mr. Kirkham stated that he had discussed those with Commissioner Smaligo in a November meeting because they were a source of community input. Mr. Kirkham did state that he had not seen a finalized list of the requests. Mr. Charney asked Mr. Kirkham if he would object to the granting of this variance if those changes were accomplished and completed. Mr. Kirkham stated that he would, because he fears that one day the entire area will become one big pile of junk.

John Smaligo, County Commissioner, 633 North Denver, Tulsa, OK; stated that he has been working on this project for several months. There is an application to rezone a piece of property to the south of what is being reviewed today. That application has been approved by TMAPC. When Commissioner Smaligo saw the approval he was not as enthusiastic as TMAPC, and that led to a meeting with Mr. Frailey, Ms. Miller, Mr. Brierre, and Mr. West. The recommendation at that meeting was that instead of seeking a rezoning of the southern property and then coming before the Board of Adjustment for the approval of the Use Unit 27 for the entire property, Commissioner Smaligo requested that Mr. Frailey seek the approval of the Use Unit 27 on the existing property. As Mr. Kirkham stated this property seems to have been operated illegally since the very beginning. There has never a been Use Unit 27 granted for any of this subject operation. As the aerial photos attest there are very large piles of dirt and it essentially looks like a land fill. At a meeting with Mr. Kirkham and the Turley Community Association there were nine people in attendance that supported the possibility of the Use Unit 27 being approved, and two people objected to the approval. Commissioner Smaligo stated that he is very frustrated with things that are happening in the Turley area, and he has had many discussions with Mr. West attempting to clean up the area which Mr. West has done. There is a lot of concern from the area residents in regards to debris that has been seen on Peoria, and items falling off trucks entering the salvage yard. Commissioner Smaligo stated that the pictures testify to the fact that the subject property looks like a landfill, and he wants to make sure there is not a landfill being operated on this property. He has walked on the property with Mr. Frailey and there are huge piles of debris. In areas there is a lot of metal and other areas there is a lot of dirt, and Mr. Frailey admits that there is a lot of dirt because the dirt is sifted through to retract as much of the scrap from it as possible. That is very unsightly and the dust that is created is a burden on the residents in the area, they deserve better

than what they have had historically. There was also the possibility of a one year to three year renewal on the property, and Mr. Frailey has stated that he can clean up the entire area within 90 days. With all due respect to Mr. Frailey, Commissioner Smaligo thinks that would be a very aggressive time line, and is not sure Mr. Frailey could complete the clean up to the satisfaction of the area residents in that restrictive time line. The area residents would like to see flagman for the trucks that must block Peoria upon their arrival or departure. The area residents would also like to see coordination between the Turley Fire Department in regards to safety concerns. Commissioner Smaligo stated that he had also toured the business to the north of the subject property, and that owner was very clearly frustrated with the amount of effort and money he had to spend to accomplish this Board's conditions but it was much cleaner than Mr. Frailey's operation.

Mr. Charney asked for Commissioner Smaligo's opinion of his meeting the residents in Turley. Commissioner Smaligo stated that the Turley Community struggles with businesses, and there has been talk of incorporating the community into it's own town or city. Based on that, at some point in time there is going to be a need to have a sales tax base for the community and the community does support business. The Turley Community does recognize the importance of business for their community, and there was a sense that a protest was not needed to get the subject business to be operated properly.

Mr. Osborne asked Commissioner Smaligo if the community expressed any thoughts about the business operations to the north of Mr. Frailey's salvage yard. Commissioner Smaligo stated that in his experience in representing the Turley area they seem to be the most frustrated with Mr. Frailey. Although, there is a general frustration that they are frustrated with all the car crushing, all the dust, all the traffic, and with all the noise associated with the business operations in the area. Those type of businesses are not the most desirable for anyone, and especially for those residents that live in close proximity of those businesses.

Mr. Charney asked Commissioner Smaligo whether the County would have opposition to the Board continuing this case for six months allowing the Board to see if there was an effort to accomplish the list of improvements requested. Commissioner Smaligo stated that he would not object to such a request, and Mr. Frailey has been aware of the situation for a couple of months at least.

Mr. Osborne asked Mr. Frailey if he owned all of the subject property, and if he currently owned the residential portion of the property that was discussed at today's meeting. Mr. Frailey answered affirmatively.

Mr. Kirkham came forward and stated that he wanted to come before the Board as a concerned citizen and a resident of the neighborhood. He was confident that Commissioner Smaligo was going to speak and he very eloquently made his points about the area. The people that attended the community meeting is a very small segment of the population, so he did not represent himself as the chairman of the

association because he came to the Board as a private concerned citizen with his personal opinions.

Mr. Osborne asked Mr. Kirkham to offer his thoughts and opinions about the other operations to the north of the subject property. Mr. Kirkham stated that it is hard to tell if the other businesses are operated in a responsible and reasonable fashion because for some time there does not seem to be as much activity as there has been in the past.

Mr. Bates stated that when he performed the site visit for the supporting documents presented to the Board in their agenda packet, he observed Mr. Frailey working a bobcat removing material. While Mr. Bates was making the site visit Mr. Frailey asked Mr. Bates to come onto the property, and Mr. Frailey showed him some of the improvements that he was attempting to make. Mr. Bates suggested that the Board might want to visit with Mr. Frailey regarding some of his suggestions for the property, i.e., a fence around the property.

Comments and Questions:

Mr. Dillard stated that 90 days in the heart of winter is not feasible so he suggested allowing Mr. Frailey six months to clean up his property, and at the end of the six months the Board will be able to make valid decision.

Mr. Walker agrees with Mr. Dillard, but wants to allow Mr. Frailey to continue using the property until the next schedule meeting.

Mr. Charney agrees with Mr. Walker and Mr. Dillard. He would not want Mr. Frailey to cease doing business in the interim. The subject business is a nonconforming use and has been in existence for ten years or more.

Mr. Osborne stated that Mr. Frailey is a business man and provides jobs to the community so he does provide an important and valuable service to the community. Scrap yards are a necessity and they provide jobs, but he has been using a residential area and that goes beyond nonconforming and inappropriate. Mr. Frailey must take some positive steps to get the business into an acceptable part of the community. He is in support of the continuation of this case.

Mr. Dillard stated that he would like for Mr. West to visit the subject property and take some "before" pictures, and visit the site on occasion taking additional pictures to present the Board with "after" pictures at the next meeting. Mr. West nodded in agreement from his seat.

Board Action:

On **MOTION** of **CHARNEY**, the Board voted 4-0-0 (Charney, Dillard, Osborne, Walker "aye"; no "nays"; no "abstentions"; Draper "absent") to **CONTINUE** the request for a **Use Variance** to allow Use Unit 27 in an IL district to permit a salvage yard (Section 910) to the July 16, 2013 Board of Adjustment meeting with no enforcement action until that time; for the following property:

S/3 E/2 NE SE SE LESS S15 THEREOF FOR ST & LESS BEG SECR E/2 NE SE SE TH W72 NELY ON CRV LF220 TO NL S/3 E/2 NE SE SE TH E52 TO EL SEC TH S219.9 POB SEC 36 21 12 1.240ACS & BG.50'W.NE COR SE SE TH W. 481'SWLY 445'E.545'NLY 440'TO BG. SEC.36-21-12, OF TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

None.

OTHER BUSINESS

None.

BOARD COMMENTS

None.

There being no further business, the meeting adjourned at 3:29 p.m.

Date approved: 2/19/13

Donald E. Army
Chair